

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES of the EMPIRE STATE
CARPENTERS WELFARE, PENSION,
ANNUITY, APPRENTICESHIP, CHARITABLE
TRUST, LABOR MANAGEMENT
CORPORATION, and SCHOLARSHIP FUNDS,

ORDER

11-cv-0056 (ADS)(WDW)

Plaintiffs,

-vs.-

SKYLINE CONCRETE, INC.,

Defendant.

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APPEARANCES:

Levy Ratner P.C.

Attorneys for the Plaintiffs

80 Eighth Avenue

8th Floor

New York, NY 10011-5126

By: Owen M. Rumelt, Esq., of Counsel

NO APPEARANCE:

Skyline Concrete, Inc.

SPATT, District Judge.

The Plaintiffs commenced this action on or about January 5, 2011, asserting claims against the Defendant Skyline Concrete Inc. for monetary relief under Section 502 of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. §§ 1132. On October 17, 2011, the Court referred the matter to United States Magistrate Judge William D. Wall for a recommendation as to whether the motion for a default judgment should be granted, and if so, to determine what relief is appropriate, including reasonable attorney’s fees and costs. On May 1, 2012, Judge Wall issued a thorough Report recommending that the Court grant judgment against Skyline Concrete, Inc., and that the Plaintiffs be awarded damages as follows:

(1) unpaid employee benefit contributions in the amount of \$48,429.35; (2) interest through May 1, 2012 in the amount of \$5,746.40, plus additional interest through the date of judgment, to be calculated at a rate of \$4.62 per day; (3) liquidated damages in the amount of \$9,685.87; (4) audit fees in the amount of \$5,565.00; (5) attorney's fees in the amount of \$2,335.00; and (6) costs in the amount of \$408.00, for a total monetary award of \$72,169.62, plus additional pre-judgment interest. To date, no objection has been filed to Judge Wall's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Wall's Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the Defendant in the amounts recommended by Judge Wall and set forth above, and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
May 24, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge